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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 19, 1999

APPLICATION OF

VPS COMMUNICATIONS, INC.

CASE NO. PUC990078

For a certificate of public
convenience and necessity to
provide local exchange
telecommunications services

ORDER

On August 13, 1999, the Commission issued a Final Order in the above-captioned case and on August 17, 1999, VPS Communications, Inc. ("VPSC") filed its Petition For Rehearing and Suspension ("Petition"). The Petition requests that reconsideration and suspension of the operation of ordering paragraph (3), p. 5 of the Final Order be granted. In the alternative, VPSC seeks the Commission's immediate interim approval of the provision by Virginia Electric and Power Company ("Virginia Power") of pole attachment services to VPSC for interexchange telecommunications traffic (pursuant to the July 1, 1998, pole attachment agreement between Virginia Power and VPSC), pending the outcome of the proceeding to be conducted pursuant to the Affiliates Act, Chapter 4 of Title 56 of the Code of Virginia.

The law in Virginia is clear with respect to agreements between public service companies, such as Virginia Power, and their affiliates. According to the law, no agreement or arrangement for, among other things, providing certain services and exchanges and leases of any property right or thing "shall be valid or effective unless and until it shall have been filed with and approved by the Commission." (§ 56-77 A of the Code of Virginia.)

The position of VPSC is that the subject pole attachment agreement has already been approved, through the Commission's approval of the Affiliate Services Agreement in Case No. PUC960136, order issued August 8, 1997. However, VPSC has agreed, as a condition to their grant of CLEC authority, that the subject pole attachment agreement will be filed in a separately docketed proceeding, pursuant to the Affiliates Act, while reserving its right to maintain that separate approval in that proceeding is not required.

We now clarify and amend the Final Order so that ordering paragraph (3) therein applies only to the CLEC operations of VPSC.

In clarifying and amending the Final Order, we are not granting an exemption under § 56-77 B of the Code of Virginia, nor are we granting interim approval of the July 1, 1998, pole

attachment agreement.¹ If, upon consideration of the subject pole attachment agreement, we determine that the agreement was required to be filed for our approval and was not, the Commission may find that there are violation(s) of the Public Utility Affiliates Act.

Accordingly, IT IS ORDERED THAT ordering paragraph (3) of the Final Order issued in this case on August 13, 1999, shall only apply to VPSC's operations as a CLEC.

¹ The Commission cannot grant the requested interim approval of an agreement that was neither attached to the Petition nor otherwise presented for our consideration.